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12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 INGRID HERTFELDER, an individual,

15 Plaintiff,

16 v.

17 JONATHAN BATISTE, an individual; and
18 DOES 1 through 10,

19 Defendants.

Case No.:

PLAINTIFF'S COMPLAINT FOR
COPYRIGHT INFRINGEMENT

Jury Trial Demanded

20 INGRID HERTFELDER, by and through her undersigned attorneys, hereby
21 prays to this honorable Court for relief based on the following:

22 **JURISDICTION AND VENUE**

23 1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101
24 *et seq.*

25 2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and
26 1338 (a) and (b).

CLAIMS RELATED TO USE OF PHOTOGRAPHIC IMAGES

8. Plaintiff HERTFELDER owns multiple original photographs (“Subject Works”) that have been registered or applied to be registered with the United States Copyright Office. Exemplars of the Subject Works are attached as Exhibit 1 of this Complaint.

9. Plaintiff is informed and believes and thereon alleges that following HERTFELDER’s creation of the Subject Works, BATISTE, DOE Defendants, and each of them distributed and/or sold products that are substantially similar to the Subject Works (hereinafter “Subject Product”) without Plaintiff HERTFELDER’s authorization and used the photographs for commercial purposes in various ways, including, but not limited to, use on merchandise such as T-shirts and CD’s, promotional materials for concerts and tours, and advertising on websites. Exemplars of Subject Products are attached as Exhibit 2 of this Complaint.

10. An image of one of the Subject Works and an exemplar of a Subject Product are set forth hereinbelow:

Subject Work



Subject Product



FIRST CLAIM FOR RELIEF

(For Copyright Infringement - Against All Defendants, and Each)

11. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

12. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Works, as they were directly provided copies of the same by Plaintiff.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyrights by creating, making and/or developing directly infringing and/or derivative works from the Subject Works and by producing, distributing and/or selling Subject Product both online and at various concert venues throughout the country.

14. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered damages in an amount to be established at trial.

15. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained profits they would not otherwise have realized but for their infringement of the Subject Works. As such, Plaintiff is entitled to disgorgement of Defendants', and each of their, profits attributable to the infringement of Subject Works in an amount to be established at trial.

16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious.

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PRAYER FOR RELIEF

Wherefore, Plaintiff prays for judgment as follows:

- a. That Defendants—each of them—and their respective agents and servants be enjoined from importing, manufacturing, distributing, offering for sale, selling or otherwise trafficking in any product that infringes Plaintiff’s copyrights in the Subject Work;
- b. That Plaintiff be awarded all profits of Defendants, and each of them, plus all losses of Plaintiff, the exact sum to be proven at the time of trial;
- c. That Plaintiff be awarded pre-judgment interest as allowed by law;
- d. That Plaintiff be awarded the costs of this action; and
- e. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7th Amendment to the United States Constitution.

Dated: July 1, 2015

DONIGER/BURROUGHS

By: /s/ Stephen M. Doniger
Stephen M. Doniger, Esq.
Frank Gregory Casella, Esq.
Attorneys for Plaintiff